



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

RIN 3150-AJ25

[NRC-2013-0072]

Inflation Adjustments to the Price-Anderson Act Financial Protection Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Atomic Energy Act of 1954, as amended (AEA), requires the U.S. Nuclear Regulatory Commission (NRC) to adjust the maximum total and annual standard deferred premiums specified in the Price-Anderson Act for inflation at least once during each 5-year period following August 20, 2003. The NRC is amending its regulations to satisfy this requirement.

DATES: This rule is effective on **[INSERT DATE THAT IS 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID NRC-2013-0072 when contacting the NRC about the availability of information for this final rule. You may access information related to this final rule, which the NRC possesses and is publicly available, using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0072. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this final rule.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Ryan K. Lighty, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1938, e-mail: ryan.lighty@nrc.gov.

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I. Background

Section 604 of the Energy Policy Act of 2005, Public Law 109-58, amended section 170 of the AEA (Price-Anderson Act) to require the NRC to adjust the maximum total and annual standard deferred premiums not less than once during each 5-year period following August 20, 2003, in accordance with the aggregate percentage change in the Consumer Price Index. The NRC made the initial changes to the Price-Anderson Act amounts on October 27, 2005 (70 FR 61885), and the first periodic inflation adjustments on September 29, 2008 (73 FR 56451). This final rule makes the second required periodic inflation adjustments to the maximum total and annual standard deferred premiums.

II. Discussion of the Final Rule

Section 170t., “Inflation Adjustment,” of the AEA requires the NRC to “adjust the amount of the maximum total and annual standard deferred premium under subsection b.(1) not less than once during each 5-year period following August 20, 2003 in accordance with the aggregate percentage change in the Consumer Price Index.” The NRC’s implementing regulations for the Price-Anderson Act are found in part 140 of Title 10 of the *Code of Federal Regulations* (10 CFR). Accordingly, the Commission is amending 10 CFR 140.11, “Amounts of financial protection for certain reactors,” to adjust for the increase in inflation since the last adjustments on September 29, 2008.

The September 2008 inflation adjustments raised the maximum total deferred premium in 10 CFR 140.11(a)(4) to \$111,900,000 and the maximum annual deferred premium to \$17,500,000. The Consumer Price Index used in calculating the September 2008 inflation adjustments was 214.823 (April 2008). The inflation adjustments promulgated in this rulemaking are based on a Consumer Price Index of 232.773 (March 2013). This represents an increase of approximately 8.36 percent. When this increase is applied to the maximum total and annual standard deferred premiums and rounded to the nearest thousand, the new maximum total deferred premium is \$121,255,000, and the maximum annual deferred premium is \$18,963,000. Section 140.11(a)(4) is being changed accordingly.

III. Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. This rule incorporates mandatory statutory requirements. Accordingly, good cause exists under 5 U.S.C. section 553(d)(3) to publish this final rule without soliciting public comment because the Commission has no discretion in these matters and public comment would serve no useful purpose. The NRC is required only to perform ministerial computations. The revisions are being published as a final rule that will become effective 60 days from the date of publication in the *Federal Register*.

IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. In this rule, the NRC is revising its regulations to

reflect statutory mandates contained in the Energy Policy Act of 2005. This action does not constitute the establishment of a standard that contains generally applicable requirements.

V. Environmental Impact: Categorical Exclusion

The Commission has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1) and (2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

VI. Paperwork Reduction Act Statement

This final rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

VII. Regulatory Analysis

A regulatory analysis has not been prepared for this regulation. This rule amends NRC regulations to be consistent with provisions of the Atomic Energy Act of 1954, as amended. This rule does not involve an exercise of Commission discretion and, therefore, does not necessitate preparation of a regulatory analysis.

VIII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this final rule would not have a significant economic impact upon a substantial number of small entities.

IX. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883).

X. Backfit Analysis and Issue Finality

The NRC has determined that the backfit provisions at 10 CFR 50.109, 70.76, 72.62, and 76.76 do not apply to this final rule because the amendments of this final rule are mandated by the Energy Policy Act of 2005.

XI. Congressional Review Act

The Office of Management and Budget, Office of Information and Regulatory Affairs, has determined that this action is a “major rule” pursuant to the definitions in the Congressional Review Act. However, this rule does not involve an exercise of Commission discretion. The NRC is required by statute to perform ministerial computations and to implement the periodic inflation adjustments, reflecting changes in the Consumer Price Index, as mandated by the AEA.

List of Subjects in 10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR part 140:

PART 140 - FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for part 140 continues to read as follows:

Authority: Atomic Energy Act secs. 161, 170, 223, 234 (42 U.S.C. 2201, 2210, 2273, 2282); Energy Reorganization Act secs. 201, as amended, 202 (42 U.S.C. 5841, 5842); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109-58, 119 Stat. 594 (2005).

2. In § 140.11, paragraph (a)(4) is revised to read as follows:

§ 140.11 Amounts of financial protection for certain reactors.

(a) * * *

(4) In an amount equal to the sum of \$375,000,000 and the amount available as secondary financial protection (in the form of private liability insurance available under an industry retrospective rating plan providing for deferred premium charges equal to the pro rata share of the aggregate public liability claims and costs, excluding costs payment of which is not

authorized by section 170o.(1)(D) of the Act, in excess of that covered by primary financial protection) for each nuclear reactor which is licensed to operate and which is designed for the production of electrical energy and has a rated capacity of 100,000 electrical kilowatts or more: Provided, however, that under such a plan for deferred premium charges for each nuclear reactor which is licensed to operate, no more than \$121,255,000 with respect to any nuclear incident (plus any surcharge assessed under subsection 170o.(1)(E) of the Act) and no more than \$18,963,000 per incident within one calendar year shall be charged. *Except that*, where a person is authorized to operate a combination of 2 or more nuclear reactors located at a single site, each of which has a rated capacity of 100,000 or more electrical kilowatts but not more than 300,000 electrical kilowatts with a combined rated capacity of not more than 1,300,000 electrical kilowatts, each such combination of reactors shall be considered to be a single nuclear reactor for the sole purpose of assessing the applicable financial protection required under this section.

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Dated at Rockville, Maryland, this **1st** day of **July**, 2013.

For the Nuclear Regulatory Commission.

R. W. Borchardt
Executive Director for Operations.

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